

SENATE BILL NO. 508

INTRODUCED BY B. HAWKS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING IMPACT FEE LAWS BY INCLUDING CAPITAL
5 FACILITIES RELATED TO K-12 PUBLIC EDUCATION AMONG THE PUBLIC FACILITIES FOR WHICH AN
6 IMPACT FEE MAY BE IMPOSED; ALLOWING A LOCAL GOVERNMENT TO REQUIRE A SUBDIVIDER TO
7 PAY FOR PART OR ALL OF THE COSTS OF CONSTRUCTING OR EXTENDING CAPITAL FACILITIES
8 RELATED TO EDUCATION; REMOVING PROVISIONS ALLOWING RURAL SCHOOL DISTRICT TRUSTEES
9 TO NEGOTIATE WITH DEVELOPERS FOR VOLUNTARY CONTRIBUTIONS OF IMPACT PAYMENTS;
10 AMENDING SECTIONS 7-6-1601, 20-9-508, 76-3-510, AND 76-3-601, MCA; AND REPEALING SECTION
11 20-9-615, MCA."

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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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15 **Section 1.** Section 7-6-1601, MCA, is amended to read:

16 **"7-6-1601. Definitions.** As used in this part, the following definitions apply:

17 (1) (a) "Capital improvements" means improvements, land, and equipment with a useful life of 10 years
18 or more that increase or improve the service capacity of a public facility.

19 (b) The term does not include consumable supplies.

20 (2) "Connection charge" means the actual cost of connecting a property to a public utility system and
21 is limited to the labor, materials, and overhead involved in making connections and installing meters.

22 (3) "Development" means construction, renovation, or installation of a building or structure, a change
23 in use of a building or structure, or a change in the use of land when the construction, installation, or other action
24 creates additional demand for public facilities.

25 (4) "Governmental entity" means a county, city, town, or consolidated government.

26 (5) (a) "Impact fee" means any charge imposed upon development by a governmental entity as part of
27 the development approval process to fund the additional service capacity required by the development from which
28 it is collected. An impact fee may include a fee for the administration of the impact fee not to exceed 5% of the
29 total impact fee collected.

30 (b) The term does not include:



1 (i) a charge or fee to pay for administration, plan review, or inspection costs associated with a permit
2 required for development;

3 (ii) a connection charge;

4 (iii) any other fee authorized by law, including but not limited to user fees, special improvement district
5 assessments, fees authorized under Title 7 for county, municipal, and consolidated government sewer and water
6 districts and systems, and costs of ongoing maintenance; or

7 (iv) onsite or offsite improvements necessary for new development to meet the safety, level of service,
8 and other minimum development standards that have been adopted by the governmental entity.

9 (6) "Proportionate share" means that portion of the cost of capital system improvements that reasonably
10 relates to the service demands and needs of the project. A proportionate share must take into account the
11 limitations provided in 7-6-1602.

12 (7) "Public facilities" means:

13 (a) a water supply production, treatment, storage, or distribution facility;

14 (b) a wastewater collection, treatment, or disposal facility;

15 (c) a transportation facility, including roads, streets, bridges, rights-of-way, traffic signals, and
16 landscaping;

17 (d) a storm water collection, retention, detention, treatment, or disposal facility or a flood control facility;

18 (e) a police, emergency medical rescue, or fire protection facility; ~~and~~

19 (f) capital facilities related to K-12 public education; and

20 ~~(f)(g)~~ other facilities for which documentation is prepared as provided in 7-6-1602 that have been
21 approved as part of an impact fee ordinance or resolution by:

22 (i) a two-thirds majority of the governing body of an incorporated city, town, or consolidated local
23 government; or

24 (ii) a unanimous vote of the board of county commissioners of a county government."
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26 **Section 2.** Section 20-9-508, MCA, is amended to read:

27 **"20-9-508. Building fund.** (1) The trustees of a district shall establish or credit the building fund
28 whenever the district:

29 (a) issues and sells bonds under the school district bonding provisions of this title for purposes other than
30 refunding bonds of the district;

1 (b) receives federal money for the express purpose of building, enlarging, or remodeling a school
2 building or other building of the district;

3 (c) sells property of the district in accordance with the law authorizing the sale;

4 (d) earns interest from the investment of building fund money under the provisions of 20-9-213(4), except
5 that interest earned from the investment of bond money under the provisions of 20-9-435 must be credited to a
6 fund in accordance with that section; or

7 (e) receives any other money, ~~including payments made by a developer under the provisions of~~
8 ~~20-9-615~~, for the express purpose of building, enlarging, or remodeling a school building or other building of the
9 district.

10 (2) The financial administration of the building fund must be in accordance with the financial
11 administration provisions of this title for a nonbudgeted fund and must provide for a separate accounting of the
12 money realized by each bond issue or by each construction project financed by a federal grant of money. Any
13 other money deposited to the credit of this fund must be expended for building, enlargement, remodeling, or
14 repairing of buildings of the district at the discretion of the trustees.

15 (3) Money credited to the building fund under the provisions of subsection (1)(a) must be expended for
16 the express purpose or purposes authorized by the bond proposition approved at the election authorizing the
17 issuance of the bonds. Any money realized by the sale of bonds and remaining to the credit of the building fund
18 after the full accomplishment of the purpose for which the bonds were sold must be transferred to the debt service
19 fund to be used for the redemption of the bonds.

20 (4) Money credited to the building fund under the provisions of subsection (1)(b) must be expended for
21 the express purpose or purposes authorized by the federal government in granting the money."
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23 **Section 3.** Section 76-3-510, MCA, is amended to read:

24 **"76-3-510. Payment for extension of capital facilities.** A local government may require a subdivider
25 to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and
26 safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision.
27 The costs must reasonably reflect the expected impacts directly attributable to the subdivision. A local
28 government may ~~not~~ require a subdivider to pay or guarantee payment for part or all of the costs of constructing
29 or extending capital facilities related to education."
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